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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,850	09/12/2003	Edward W. Armstrong	YOR920030312US1	7027

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EXAMINER	
CRAWLEY, TALIA F	

ART UNIT	PAPER NUMBER
4176	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/660,850	ARMSTRONG ET AL.	
	Examiner	Art Unit	
	TALIA CRAWLEY	4176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *April 8, 2008 (Election)*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) *12-23* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *October 27, 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20030912*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention I (Claims 1-11) in the reply filed on April 8, 2008 is hereby acknowledged.

2. Claims 12-23 are hereby withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 8, 2008.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Abbott et al. (US 2004/0236641).

Regarding **claim 1**, Abbott et al. disclose a method for resolving demand and supply imbalances comprising: identifying at least one excess component inventory liability or at least one constraint in supply capability for an end product (see in particular page 1, paragraph

[0005], lines 6-10) by matching current buying patterns for said end product against inventory liability and supply capability based on a previous demand forecast (see for example page 4, paragraph [0052], lines 2-6) ; where excess component inventory liability exists: refocusing said at least one excess component inventory liability by determining alternative end products that use components identified in said at least one excess component inventory liability; and executing sales activities operable for enticing sales of said alternative end product (see for example page 7, paragraph [0094], lines 31-37)s; and where constrained supply capability exists: determining alternative end products that are functionally equivalent to those identified in said at least one constrained supply capability; and executing sales activities operable for enticing sales of functionally equivalent alternative end products (see in particular page 5, paragraph [0069], lines 1-9); wherein said sales activities result in reducing said at least one excess component inventory liability or avoiding said at least one constraint in supply capability (see in particular page 1, paragraph [0006], lines 11-16).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 2004/0236641).

Regarding **claim 3**, Abbott et al. disclose a method for resolving demand and supply imbalances, as applied above in the rejection of claim 1 under 35 U.S.C. 102(e), and Abbott et al. further disclose that the refocusing said at least one excess component inventory liability by determining alternative end products that use components identified in said at least one excess component inventory liability includes performing a supply liability reduction process comprising: a procurement and development assessment sub-process including mitigation activities, said procurement and development assessment sub-process mitigation activities representing a greatest magnitude of liability, but Abbott et al. do not explicitly disclose that the procurement and development sub-process mitigation activities are performed first in time before other sub-processes.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the procurement and development sub-process mitigation activities would be performed first in time

before other sub-processes, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 4,** Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a liability council assessment sub-process including mitigation activities, said liability council assessment sub-process mitigation activities representing a magnitude of liability less than that of said procurement and development assessment sub-process, but does not explicitly disclose the method of claim 3, wherein said liability council assessment sub-process mitigation activities are performed second in time after said procurement and development assessment sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the liability council assessment sub-process mitigation activities would be performed second in time after said procurement and development assessment sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 5**, Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a sales activities sub-process including mitigation activities, said sales activities sub-process mitigation activities representing a magnitude of liability less than that of said liability council assessment sub-process, but does not explicitly disclose the method of claim 3, wherein said sales activities sub-process mitigation activities are performed third in time after said liability council assessment sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the sales activities sub-process mitigation activities would be performed third in time after said liability council assessment sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

Regarding **claim 6**, Abbott et al. disclose the method of claim 3, wherein said performing a supply liability reduction process further includes: a liability write off sub-process including mitigation activities, said liability write off sub-process mitigation activities representing a magnitude of liability less than that of said sales activities, but does not explicitly disclose the

method of claim 3, wherein said liability write off sub-process mitigation activities are performed fourth in time after said sales activities sub-process.

However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have performed the steps disclosed by Abbott et al. in an order such that the liability write off sub-process mitigation activities would be performed fourth in time after said sales activities sub-process, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results, and since it has been held that selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results. *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946).

In regards to **claim 7**, Abbott et al. disclose the method of claim 3, wherein said procurement and development assessment sub-process mitigation activities comprise at least one of: rebalancing demand and supply by shifting demand or supply from one geography to another; selling components back to vendors; negotiating with vendors to eliminate or reduce liability based upon mutually agreed to incentives that provide incremental value to both parties; using excess components as field parts in support of a warranty program or servicing requirements; qualifying excess components in new products; and adjusting said sales forecast to account for excess or constrained components (see for example page 5, paragraph [0070], lines 4-9 and page 6, paragraph [0092], lines 4-8,).

In regards to **claim 8**, Abbott et al. disclose the method of claim 4, wherein said liability council assessment mitigation activities comprise at least one of: updating said sales forecast to account for excess or constrained components ; conducting squared sets analysis; brokering components or products that are no longer saleable; creating saleable bundles with other current offerings; developing option packages; determining alternative routes to market; and making liability write-off determinations (see in particular page 5, paragraph [0076], lines 1-9 and page 6, paragraph [0077], lines 1-12).

In regards to **claim 9**, Abbott et al. disclose the method of claim 5, wherein said sales activities sub-process mitigation activities sub-process comprise at least one of: developing a promotion for long-term over supply through advertisements and communications media; offering a solution via alternate routes to market; authorizing pricing actions comprising at least one of: price decreases; discount incentives; and pricing delegations; establishing incentives for buying or selling; reassessing commission structures for an offering; and updating telesales team scripts for inbound and outbound telephone calls (see for example page 5, paragraph [0070], lines 4-9 and page 7, paragraph [0097], lines 1-5) .

In regards to **claim 10**, Abbott et al. disclose the method of claim 6, wherein said liability write off mitigation activities comprise at least one of: negotiating with a vendor; and scrapping components associated with said liability (see in particular page 5, paragraph [0072], lines 6-12).

8. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al. (US 2004/0236641) as applied to claim 1 above under USC 102(e), in view of Kennedy et al. (US 6,167,380).

Regarding **claim 2**, Abbott et al. disclose the method of claim 1, wherein said identifying at least one excess component inventory liability or at least one constraint in supply capability includes: exploding a bill of materials for a product structure based upon a sales forecast, demand data, and supplier commitment data (see in particular page 5, paragraph [0068], lines 1-3 and paragraph [0073], lines 6-10), but does not explicitly disclose the method of claim 1 where identifying at least one excess component inventory liability or at least one constraint in supply capability includes: imploding results of said exploding into end products and an available to promise statement; translating said results into lead times for delivery; and identifying remaining results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product.

However, Kennedy et al. teach the method of claim 1, but include the method of claim 1 where identifying at least one excess component inventory liability or at least one constraint in supply capability includes: imploding results of said exploding into end products and an available to promise statement (see for example column 2, lines 38-52) ; translating said results into lead times for delivery (see in particular column 4, lines 41-47) ; and identifying remaining results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product (see for example column 4, lines 48-57).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to implement identifying at least one excess component inventory liability or at least one constraint in supply capability including imploding results of said exploding into end products and an available to promise statement translating said results into lead times for delivery; and identifying remaining results not included in said available to promise statement as excess component inventory liability or constraint in supply capability for an end product with the invention as disclosed by Abbott et al, because by utilizing an available to promise statement and determining lead times for various products to determine what materials are in excess or constrained, a company would be able to determine the amount of time and inventory available to complete customer order requests, thereby reducing production time and reducing liability.

Regarding **claim 11**, Abbott et al. disclose the method of claim 1 but do not explicitly disclose the method of claim 1, wherein said sales activities include: cross-sell; up-sell; alternative-sell; and down-sell.

However, Kennedy et al. teach the method of claim 1 and include the method of claim 1, wherein said sales activities include: cross-sell; up-sell; alternative-sell; and down-sell (see in particular column 4, lines 59-67, column 5, lines 1-3, and column 9, lines 1-5).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention to include cross, up, alternative, and down selling techniques in the sales activities of the invention as disclosed by Abbott et al, because by introducing various sales techniques within mitigation activities, a company can effectively minimize profit loss by offering

customers products at lower costs, alternative products at the same price, bundles, and offer increased pricing to customers who want to receive specified goods on time. By increasing product and pricing alternatives to customers, the company can increase the likelihood of sales and profit, thereby reducing the liability caused by excess or constrained inventory.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- The reference Jameson (US 6,032,123) discloses a method and apparatus for allocating, costing, and pricing organizational resources.
- The reference Gleditsch et al. (US 6,397,118) discloses a method and system for providing sufficient availability of manufacturing resources to meet unanticipated demand.
- The reference Horne (US 7,058,587) discloses a system and method for allocating the supply of critical material components and manufacturing capacity.
- The reference Eck et al. (US 7,231,361) discloses a method, system, and storage medium for utilizing excess and surplus inventory.
- The reference Ferrari et al. (US 7,289,968) discloses forecasting demand for critical parts in a product line.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TALIA CRAWLEY whose telephone number is (571)270-5397. The examiner can normally be reached on Monday to Thursday eight to five.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on 571-272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. C./
Examiner, Art Unit 4176
5/6/2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 4176